

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4831-05
Bill No.: Truly Agreed To and Finally Passed SS for SCS for SB 884
Subject: State Attorney General; Department of Revenue; Tobacco Products
Type: Original
Date: May 26, 2010

Bill Summary: The proposal amends various provisions of the Tobacco Master Settlement Agreement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	\$0	\$88,871	\$91,536
Total Estimated Net Effect on General Revenue Fund	\$0	\$88,871	\$91,536

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Tobacco Control Special	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	0	(1)	(1)
Tobacco Control Special	0	0	0
Total Estimated Net Effect on FTE	0	(1)	(1)

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, – Division of Budget and Planning, Department of Public Safety – Director’s Office, – Division of Alcohol and Tobacco Control**, and the **Office of the State Treasurer** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (SS for SCS for SB 884, LR # 4831-05), officials from the **Office of the State Public Defender** assumed the proposal would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Attorney General (AGO)** state, due to the staffing requirements of the current tobacco-related national arbitration involving the 2004 settlement payment, and likely litigation concerning payments for each year thereafter, AGO does not initially anticipate a savings under this proposal. While the proposal contains enhanced tools to enforce the escrow requirements of the current law, the bill as perfected includes a new provision requiring the AGO to obtain a judicial order prior to DOR seizing any contraband. This provision will result in additional caseload, offsetting some of the savings. Consequently, AGO anticipates a savings in FY12 of 1 FTE for a savings of \$88,871.

Officials from the **Department of Corrections (DOC)** assume the penalty provision, the component of the bill to have potential fiscal impact for DOC, is for a class D felony.

DOC cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY09 average of \$16.04 per offender per day, or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender per day, or an annual cost of \$1,354 per offender).

ASSUMPTION (continued)

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders;
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence; and
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Revenue (DOR)** assume they will absorb the programming costs and functions of this legislation; personnel will be transferred from other areas, possibly resulting in service delays.

Officials from the **Office of the Secretary of State (SOS) – Administrative Rules Division** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **SOS – Business Services Division** stated, information received from the Office of the Attorney General indicates that the number of services for which the SOS would be deemed the agent for service of process would be approximately 12 per year. Based on these numbers, the SOS will absorb the cost of processing these services of process.

Officials from the Office of Prosecution Services did not respond to Oversight's request for fiscal impact.

ASSUMPTION (continued)

The proposal could impact Total State Revenue. Total State Revenue could increase by increasing penalties collected. Also, without stringent enforcement of the non-participating manufacture statutes, the state could potentially lose revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2011	FY 2012	FY 2013
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GENERAL REVENUE FUND

Savings – Office of the Attorney General

Personal Service	\$0	\$50,393	\$51,905
Fringe Benefits	\$0	\$26,426	\$27,219
Equipment and Expense	\$0	\$12,052	\$12,412
<u>Total Savings – AGO</u>	<u>\$0</u>	<u>\$88,871</u>	<u>\$91,536</u>
FTE Change – AGO	0 FTE	(1) FTE	(1) FTE

**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND**

<u>\$0</u>	<u>\$88,871</u>	<u>\$91,536</u>
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Estimated Net FTE Change for General
Revenue Fund

0 FTE	(1) FTE	(1) FTE
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**TOBACCO CONTROL SPECIAL
FUND**

Income – Collection of disgorgements,
penalties, and fees

Unknown	Unknown	Unknown
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Losses – Collection of disgorgements,
penalties, and fees

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON
TOBACCO CONTROL SPECIAL
FUND**

<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>	<u>(Unknown) to Unknown</u>
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FISCAL IMPACT - Local Government

FY 2011

FY 2012

FY 2013

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses involved in the sale of cigarettes or tobacco products may be administratively impacted by the provisions in the proposed legislation.

FISCAL DESCRIPTION

The proposed legislation requires all tobacco manufacturers whose cigarettes are sold in Missouri to report and certify to the Department of Revenue and the Attorney General's Office by April 30 of each year that they are in compliance with the Tobacco Settlement Model Statute currently in Missouri law. In addition to the certification, manufacturers must also provide a list of "brand families." Non-participating manufacturers must provide the number of units sold for each family for the preceding year, the name and address of any other manufacturer of their brand families in the preceding or current calendar year, and other information to verify compliance with the model statute in their certification. All manufacturers must update their lists thirty days prior to any addition to or modification of its brand families through a supplemental certification to the director of the Department of Revenue.

In addition to other certification requirements, each non-participating manufacturer must be registered to do business in the state or maintain an agent within the state for the purpose of service of process relating to the enforcement of the act. By January 1, 2011, the director of the Department of Revenue must issue, maintain, update, make available for public inspection, and publish on the department's web site a list of all tobacco product manufacturers that have satisfied the certification requirements established in the act.

The director of the Department of Revenue and the Attorney General are allowed to share information on tobacco sales in the state to implement and enforce the provisions of the act.

Stamping agents (persons authorized to affix cigarette tax stamps to cigarette packages) are required to submit to the director an e-mail address for the receipt of notifications as required by the bill and to submit various reports and documents as required by the department.

FISCAL DESCRIPTION (continued)

Various penalties and actions for failure to comply with the requirements of the act are included.

The proposal contains an emergency clause, and would be in full force and effect upon its passage and approval.

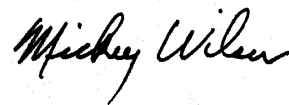
This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of Administration
 – Administrative Hearing Commission
 – Division of Budget and Planning
Office of State Courts Administrator
Department of Corrections
Department of Revenue
Department of Public Safety
 – Division of Alcohol and Tobacco Control
 – Director's Office
Office of the Secretary of State
Office of the State Public Defender
Office of the State Treasurer

NOT RESPONDING

Office of Prosecution Services



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